



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: DECEMBER 06, 2022

IN THE MATTER OF:

Appeal Board No. 625096

PRESENT: JUNE F. O'NEILL, MEMBER

In Appeal Board Nos. 625095 and 625096, the claimant appeals from the decisions of the Administrative Law Judge filed July 15, 2022, which sustained the initial determinations holding the claimant ineligible to receive benefits, effective February 24, 2020 through March 1, 2020, and effective March 23, 2020 through March 29, 2020 on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive benefits, effective March 2, 2020 through March 8, 2020 and March 30, 2020 through May 10, 2020, on the basis that the claimant did not comply with registration requirements.

At the combined telephone conference hearings before the Administrative Law Judge, testimony was taken. There was an appearance by the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. At the hearing, the claimant indicated that he could find out when he placed telephone calls to the Department of Labor between February 2020 and July 2020, but he was not afforded an opportunity to produce evidence he might have regarding these telephone calls. The Board has determined to provide the claimant an opportunity to appear and provide further testimony and evidence in this matter.

The claimant should have the opportunity to obtain and produce his phone records for February through July 2020 and shall produce any other records regarding when he placed calls to the Department of Labor during that time. With regard to his telephone records, if he is unable to obtain his telephone

records from any companies, the claimant shall contact the Hearing Section to request a subpoena for their production.

The Commissioner of Labor should be represented at the remand hearing. The Commissioner of Labor should produce a witness to provide testimony further about the Call History Report. The Commissioner shall also produce any evidence regarding discrepancies in email accounts associated with the claimant's unemployment insurance account, as well as problems with the claimant's ID.me account. The Judge may take additional testimony and evidence as the Judge determines is appropriate.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issues, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issues, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

JUNE F. O'NEILL, MEMBER